
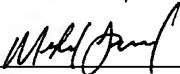


17589 U.S. PTO  
102403

| UTILITY<br>PATENT APPLICATION<br>TRANSMITTAL   |              | Attorney Docket No.: 14014.0306U2  |              |                      |      |                      |              |           |  |           |        |                    |         |  |           |        |   |  |  |  |          |                                      |  |  |  |          |  |  |  |  |    |                           |  |  |  |          |
|--|--------------|--|--------------|----------------------|------|----------------------|--------------|-----------|--|-----------|--------|--------------------|---------|--|-----------|--------|---|--|--|--|----------|--------------------------------------|--|--|--|----------|--|--|--|--|----|---------------------------|--|--|--|----------|
| (Only for new nonprovisional applications under 37 CFR 1.53(b))  |              | First Inventor: Kraus  |              |                      |      |                      |              |           |  |           |        |                    |         |  |           |        |   |  |  |  |          |                                      |  |  |  |          |  |  |  |  |    |                           |  |  |  |          |
|  |              | Title: METHODS FOR DIAGNOSIS OF CANCER USING erbB-3  |              |                      |      |                      |              |           |  |           |        |                    |         |  |           |        |   |  |  |  |          |                                      |  |  |  |          |  |  |  |  |    |                           |  |  |  |          |
| Express Mail Label No.: EL 992076271 US  |              | ADDRESS TO: Mail Stop PATENT APPLICATION<br>Commissioner for Patents<br>P.O. Box 1450<br>Alexandria, VA 22313-1450   |              |                      |      |                      |              |           |  |           |        |                    |         |  |           |        |   |  |  |  |          |                                      |  |  |  |          |  |  |  |  |    |                           |  |  |  |          |
| <b>APPLICATION ELEMENTS</b><br>See MPEP chapter 600 concerning utility application contents  |              |  |              |                      |      |                      |              |           |  |           |        |                    |         |  |           |        |   |  |  |  |          |                                      |  |  |  |          |  |  |  |  |    |                           |  |  |  |          |
| 1. <input checked="" type="checkbox"/> <b>Specification</b> [Total Pages 72]<br>(Includes description, claims, and abstract)   |              | 6. <input type="checkbox"/> <b>CD-ROM or CD-R</b> in duplicate, large tables or<br>Computer Program (Appendix)   |              |                      |      |                      |              |           |  |           |        |                    |         |  |           |        |   |  |  |  |          |                                      |  |  |  |          |  |  |  |  |    |                           |  |  |  |          |
| 2. <input checked="" type="checkbox"/> <b>Drawings</b> [Total Sheets 14]   |              | <b>ACCOMPANYING APPLICATION PARTS:</b><br>7. <input type="checkbox"/> Copy of Assignment<br>8. <input type="checkbox"/> 37 CFR 3.73(b) Statement (when there is an assignee)<br>9. <input checked="" type="checkbox"/> Associate Power of Attorney<br>10. <input type="checkbox"/> English Translation Document (if applicable)<br>11. <input type="checkbox"/> Information Disclosure Statement/PTO-1449<br><input type="checkbox"/> Copies of IDS Citations [Total Citations ____]<br>12. <input type="checkbox"/> Preliminary Amendment<br>13. <input type="checkbox"/> Certified Copy of Priority Document(s) (if foreign<br>priority is claimed)<br>14. <input type="checkbox"/> Nonpublication Request under 35 USC 122(b)(2)(B)(i)<br>(Must attach form PTO/SB/35 or equivalent).<br>15. <input checked="" type="checkbox"/> Authorization to Treat Reply Requiring Extension of<br>Time as Incorporating Petition for Extension of Time<br>16. <input checked="" type="checkbox"/> Return Receipt Postcard (MPEP 503)<br>17. <input checked="" type="checkbox"/> Other: <u>Preliminary Amendment</u> |              |                      |      |                      |              |           |  |           |        |                    |         |  |           |        |   |  |  |  |          |                                      |  |  |  |          |  |  |  |  |    |                           |  |  |  |          |
| 3. <input checked="" type="checkbox"/> <b>Oath or Declaration</b> [Total Pages 2]<br>a. <input type="checkbox"/> Newly executed (original or copy)<br>b. <input checked="" type="checkbox"/> Copy from a prior application (37 CFR 1.63(d))<br>(for continuation/divisional with Box 20B<br>completed)   |              |  |              |                      |      |                      |              |           |  |           |        |                    |         |  |           |        |   |  |  |  |          |                                      |  |  |  |          |  |  |  |  |    |                           |  |  |  |          |
| 4. <input type="checkbox"/> <b>Application Data Sheet.</b> See 37 CFR 1.76<br>[Total Pages ____]   |              |  |              |                      |      |                      |              |           |  |           |        |                    |         |  |           |        |   |  |  |  |          |                                      |  |  |  |          |  |  |  |  |    |                           |  |  |  |          |
| 5. <input checked="" type="checkbox"/> <b>Nucleotide and/or Amino Acid Sequence<br/>Submission</b> (if applicable, all necessary)<br>a. <input type="checkbox"/> Computer Readable Form (CRF)<br>--OR--<br><input checked="" type="checkbox"/> Statement under 37 CFR 1.821(e) (see Box 21<br>for statement)<br>b. <input checked="" type="checkbox"/> Specification Sequence Listing on:<br>i. <input type="checkbox"/> CD-ROM or CD-R (2 copies); or<br>ii. <input checked="" type="checkbox"/> paper [Total Pages 18]<br>c. <input checked="" type="checkbox"/> The contents of the computer readable form of<br>the sequence listing and the sequence listing in<br>the specification of the application are the same.   |              |  |              |                      |      |                      |              |           |  |           |        |                    |         |  |           |        |   |  |  |  |          |                                      |  |  |  |          |  |  |  |  |    |                           |  |  |  |          |
| 18. The <b>FILING FEE</b> is calculated as follows: (Claims as filed, less any claims cancelled by Amendment)  |              |  |              |                      |      |                      |              |           |  |           |        |                    |         |  |           |        |   |  |  |  |          |                                      |  |  |  |          |  |  |  |  |    |                           |  |  |  |          |
| <table border="1"><thead><tr><th>Claims</th><th>Number Filed</th><th>Number Extra</th><th>Rate</th><th>\$770.00 (Basic Fee)</th></tr></thead><tbody><tr><td>Total claims</td><td>16 - 20 =</td><td></td><td>X \$18.00</td><td>\$0.00</td></tr><tr><td>Independent claims</td><td>2 - 3 =</td><td></td><td>X \$86.00</td><td>\$0.00</td></tr><tr><td colspan="4">MULTIPLE DEPENDENT CLAIM(S) (if applicable)</td><td>+ 290.00</td></tr><tr><td colspan="4"><b>TOTAL OF ABOVE CALCULATIONS =</b></td><td>\$770.00</td></tr><tr><td colspan="4"><input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Fees are reduced by 1/2.</td><td>\$</td></tr><tr><td colspan="4"><b>TOTAL FILING FEE =</b></td><td>\$770.00</td></tr></tbody></table> |              | Claims   | Number Filed | Number Extra         | Rate | \$770.00 (Basic Fee) | Total claims | 16 - 20 = |  | X \$18.00 | \$0.00 | Independent claims | 2 - 3 = |  | X \$86.00 | \$0.00 | MULTIPLE DEPENDENT CLAIM(S) (if applicable) |  |  |  | + 290.00 | <b>TOTAL OF ABOVE CALCULATIONS =</b> |  |  |  | \$770.00 | <input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Fees are reduced by 1/2. |  |  |  | \$ | <b>TOTAL FILING FEE =</b> |  |  |  | \$770.00 |
| Claims   | Number Filed | Number Extra   | Rate         | \$770.00 (Basic Fee) |      |                      |              |           |  |           |        |                    |         |  |           |        |   |  |  |  |          |                                      |  |  |  |          |  |  |  |  |    |                           |  |  |  |          |
| Total claims   | 16 - 20 =    |  | X \$18.00    | \$0.00               |      |                      |              |           |  |           |        |                    |         |  |           |        |   |  |  |  |          |                                      |  |  |  |          |  |  |  |  |    |                           |  |  |  |          |
| Independent claims   | 2 - 3 =      |  | X \$86.00    | \$0.00               |      |                      |              |           |  |           |        |                    |         |  |           |        |   |  |  |  |          |                                      |  |  |  |          |  |  |  |  |    |                           |  |  |  |          |
| MULTIPLE DEPENDENT CLAIM(S) (if applicable)  |              |  |              | + 290.00             |      |                      |              |           |  |           |        |                    |         |  |           |        |   |  |  |  |          |                                      |  |  |  |          |  |  |  |  |    |                           |  |  |  |          |
| <b>TOTAL OF ABOVE CALCULATIONS =</b>   |              |  |              | \$770.00             |      |                      |              |           |  |           |        |                    |         |  |           |        |   |  |  |  |          |                                      |  |  |  |          |  |  |  |  |    |                           |  |  |  |          |
| <input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Fees are reduced by 1/2.   |              |  |              | \$                   |      |                      |              |           |  |           |        |                    |         |  |           |        |   |  |  |  |          |                                      |  |  |  |          |  |  |  |  |    |                           |  |  |  |          |
| <b>TOTAL FILING FEE =</b>  |              |  |              | \$770.00             |      |                      |              |           |  |           |        |                    |         |  |           |        |   |  |  |  |          |                                      |  |  |  |          |  |  |  |  |    |                           |  |  |  |          |
| 19. <b>Payment:</b><br><input type="checkbox"/> A check in the amount of \$_____ is enclosed.<br><input checked="" type="checkbox"/> Credit Card Payment Form PTO-2038 Authorizing Payment in the amount of \$770.00 is enclosed.<br><input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional amount due or credit any overpayment to<br>Deposit Account No. 14-0629.  |              |  |              |                      |      |                      |              |           |  |           |        |                    |         |  |           |        |   |  |  |  |          |                                      |  |  |  |          |  |  |  |  |    |                           |  |  |  |          |

|  |                                     |   |
|--|-------------------------------------|---|
| 20A.   | <input type="checkbox"/>            | This application is an original application ( <u>not</u> a continuation, divisional or continuation-in-part).   |
| 20B.   | <input checked="" type="checkbox"/> | <p>This application is a <input type="checkbox"/> continuation-in-part / <input type="checkbox"/> continuation / <input checked="" type="checkbox"/> divisional of prior Application No. <u>09/170,699</u>.</p> <p>The prior application was assigned to Examiner <u>B.J. Forman</u>, Group Art Unit <u>1634</u>.</p> <p><b>The entire disclosure of the prior application is considered a part of the disclosure of the accompanying application and is hereby incorporated by reference.</b></p> <p><input checked="" type="checkbox"/> This application is a continuation or divisional application (<u>not</u> a continuation-in-part) that:</p> <ul style="list-style-type: none"><li>(i) names as inventors the same or fewer than all the inventors named in the prior application; and</li><li>(ii) contains no matter that would have been new matter in the prior application; and</li><li>(iii) a copy of the executed oath or declaration in the prior application, showing the signature or an indication thereon that it was signed:<ul style="list-style-type: none"><li><input checked="" type="checkbox"/> is enclosed.</li><li><input type="checkbox"/> will follow.</li></ul></li></ul> <p><input type="checkbox"/> This application is a continuation or divisional application (<u>not</u> a continuation-in-part) that is being filed by less than all the inventors named in the prior application. In accordance with 37 C.F.R. §1.63(d)(2), the Commissioner is requested to delete the name(s) of the following person who are not inventors of the invention being claimed in this application:</p> <p>_____</p> <p><input type="checkbox"/> This application is a continuation-in-part, continuation or divisional application naming an inventor not named in the prior application. A newly executed oath or declaration:</p> <ul style="list-style-type: none"><li><input type="checkbox"/> is enclosed.</li><li><input type="checkbox"/> will follow.</li></ul> |
| 21.  | <input checked="" type="checkbox"/> | <p>A sequence listing in computer readable form in compliance with 37 C.F.R. §§ 1.821-1.825 was submitted on <u>November 10, 1992</u> in prior Application No. <u>07/978,895</u>, filed <u>November 10, 1992</u>.</p> <p>Pursuant to 37 C.F.R. § 1.821(e), applicant hereby requests that the computer readable form of the sequence listing submitted in the above-referenced prior application be used as the computer readable form of the sequence listing for the new application. The paper or compact disk copy of the Sequence Listing in the new application is identical to the computer readable copy filed in the prior application.</p>  |
| 22.  | <input type="checkbox"/>            | <p>This application claims foreign priority benefits under 35 USC 119(a)-(d) or 365(b) of any foreign application(s) listed below, or under 35 USC 365(a) or 365(b) of any PCT application listed below.</p> <p>Application No. _____ Country: _____ Day/Month/Year Filed: _____</p>  |
| 23. Address all correspondence to the address associated with: <span style="float: right;">CUSTOMER NO. 36339</span>   |                                     |   |
| Name of Attorney/Agent: <u>Shari J. Corin, Ph.D.</u>   |                                     | Registration No.: <u>46,243</u>   |
| Signature:    |                                     | Date: <u>October 24, 2003</u>   |
| <b>Certificate of Express Mailing Under 37 C.F.R. § 1.10</b>   |                                     |   |
| I hereby certify that this correspondence, including any items indicated as attached or included, is being deposited with the United States Postal Service as Express Mail, Label No. EL 992076271 US, in an envelope addressed to: Mail Stop PATENT APPLICATION, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below. |                                     |   |
| <br>_____<br>Michael Laird  |                                     | <u>10/24/03</u><br>_____<br>Date  |

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

|                                    |   |                            |
|------------------------------------|---|----------------------------|
| In re Application of               | ) |                            |
|                                    | ) |                            |
| Kraus <i>et al.</i>                | ) |                            |
|                                    | ) |                            |
| Application Serial No.: Unassigned | ) | Group Art Unit: Unassigned |
|                                    | ) |                            |
| Filing Date: Concurrent            | ) | Examiner: Unassigned       |
|                                    | ) |                            |
| For: METHODS FOR DIAGNOSIS OF      | ) |                            |
| CANCER USING erbB-3                | ) |                            |

**AUTHORIZATION TO TREAT REPLY REQUIRING EXTENSION OF TIME  
AS INCORPORATING PETITION FOR EXTENSION OF TIME**

Mail Stop Patent Application  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

NEEDLE & ROSENBERG, P.C.  
Customer Number 36339

October 24, 2003

Sir:

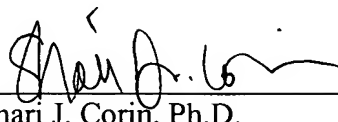
Pursuant to 37 C.F.R. §1.136(a)(3), the Commissioner is hereby requested and authorized to treat any concurrent or future reply in the above-identified application, requiring a petition for an extension of time for its timely submission, as incorporating a petition for extension of time for the appropriate length of time.

ATTORNEY DOCKET NO. 14014.0306U2

The Commissioner is hereby authorized to charge any additional amount that may be required or to credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

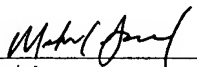
NEEDLE & ROSENBERG, P.C.

  
\_\_\_\_\_  
Shari J. Corin, Ph.D.  
Registration No. 46,243

NEEDLE & ROSENBERG, P.C.  
Customer Number 36339  
(678) 420-9300  
(678) 420-9301 (fax)

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I hereby certify that this correspondence, including any items indicated as attached or included, is being deposited with the United States Postal Service as Express Mail, Label No. EL992076271 US in an envelope addressed to: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

  
\_\_\_\_\_  
Michael Laird

10/24/03  
\_\_\_\_\_  
Date